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**Preliminary Project Plan for
Independent Review of Elemental Phosphorus Remediation
Phase 1: Technology Review
(Draft 3/7/14)**

1. **Purpose of Study:** To frame and conduct “an independent review of excavation and treatment technologies for soil contaminated with elemental phosphorus at the FMC Operable Unit. The results of this unique effort will ultimately supplement the extensive evaluation of treatment technologies reflected in the administrative record for the interim record of decision amendment for the FMC Operable Unit.”¹ This project plan is intended to organize and frame the technology review (Phase 1) of the independent review.
2. **Draft Project Schedule**
 - January 2014 (Month 1): EPA identifies Agency project participants and begins project planning. [Completed]
 - February 2014 (Month 2):
 - EPA drafts *Project Plan, Roles and Responsibilities*, and *Work Order* for Interagency Agreement (IAG) [Completed]
 - EPA and Tribes conduct conference call to introduce project participants, summarize EPA project roles, and discuss next steps. [Completed 2/26/14]
 - March 2014 (Month 3):
 - EPA provides Tribes with drafts of *Project Plan, Roles and Responsibilities*, and *IAG Work Order* for review [Completed 3/7/14]
 - EPA, Tribes, and Argonne conduct meeting to discuss comments on Draft *Project Plan, Roles and Responsibilities*, and *IAG Work Order* [Proposed for 3/24/14 or 3/25/14]
 - EPA completes transfer of management of Cooperative Agreement (CAG) to OSRTI
 - April 2014 (Month 4):
 - Tribes provide any written comments on documents and applicable technical information for Expert Review Team (“Team”) consideration (by 2 weeks after meeting)
 - EPA considers comments on *Project Plan, Roles and Responsibilities*, and *Work Order* and provides revised documents to Tribe (by 2 weeks after receiving comments)
 - May 2014 (Month 5):
 - EPA and Tribes have conference call to discuss any additional comments (by 2 weeks after sending revised documents)
 - EPA finalizes documents, and provides revised *IAG Work Order* and applicable information to Argonne (by 2 weeks after conference call)
 - June 2014 (Month 6):
 - Argonne begins effort; forms Expert Review Team
 - Argonne, Expert Review Team, EPA and Tribe conduct technical site visit [Date TBD]
 - July-October 2014 (Months 7-10)
 - Argonne and Expert Review Team conduct review independently
 - Argonne delivers *Draft Report*

¹USEPA. Bob Perciasepe Letter to Chairman Nathan Small, July 10, 2012.

- Argonne gives *Presentation* summarizing report (e.g., webinar)
- November- December 2014 (Months 11-12)
 - EPA and Tribes review *Draft Report* and each transmit any *Comments on Draft Report* to Argonne (6 weeks after receiving report)
- January- February 2015 (Months 13-14):
 - Argonne prepares and issues final *Report* and *Response to Comments* [8 weeks after receiving comments]

3. Project Plan Attachments

- ***Attachment 1: Roles and Responsibilities:*** Lists project participants and their roles and responsibilities for the duration of the project
- ***Attachment 2: IAG Work Order:*** Formal document that describes scope of work to be undertaken by Argonne; based on original study framework²
- ***Attachment 3: List of Applicable Technical Information:*** List of available reference material and Internet links of potential use to Team

4. IAG Deliverables

- ***Draft Technology Review of Excavation and Treatment Technologies for Soil Contaminated with Elemental Phosphorus at the FMC Operable Unit ("Draft Report"):*** Draft Report prepared by Argonne under the IAG with EPA and in accordance with the *IAG Work Order*
- ***PowerPoint Presentation of Draft Report:*** Summary of draft report presented by Argonne to project participants
- ***Final Technology Review of Excavation and Treatment Technologies for Soil Contaminated with Elemental Phosphorus at the FMC Operable Unit ("Final Report"):*** Final Report prepared by Argonne under the IAG with EPA and in accordance with the *IAG Work Order*
- ***Response to Comments on Draft Report:*** Formal response to all comments submitted on *Draft Report*

² Bob Perciasepe's July 10, 2012 Letter Attachment entitled "EPA's Draft Proposal to Commission an Independent Review of Excavation/Treatment Technologies for the FMC Operable Unit of the Eastern Michaud Superfund Site."

Attachment 1
Roles and Responsibilities
(Draft 3/7/14)

1) EPA/OSRTI

- a) Serve as Project Officer for Interagency Agreement (IAG) with Argonne National Laboratory and Cooperative Agreement with Shoshone-Bannock (Michael Adam, TIFSD)
- b) Coordinate overall project oversight (Silvina Fonseca (ARD), Greg Gervais (TIFSD))
 - Ensure adherence to schedule/budget
 - Coordinate conference calls and meetings
 - Communicate with applicable Tribal representatives on any issues related to Independent Review (Gervais)
- c) Lead project planning and report review (Linda Fiedler, TIFSD)
 - Prepare draft/final project planning documents
 - Provide any additional technical information to Argonne
 - Coordinate review of draft Report and Response to Comments

2) EPA/Region 10

- a) Provide site information and other support to EPA Headquarters staff and technical lead, as needed (e.g., site documents) (Kevin Rochlin)
- b) Communicate with Shoshone-Bannock Tribes on issues unrelated to Independent Review (Beth Sheldrake and Rochlin)
- c) Coordinate site visit logistics (Rochlin)

3) Argonne National Laboratory

- a) Facilitate meetings
- b) Select Independent Expert Review Team members
- c) Manage Team and conduct Technology Review
- d) Produce deliverables
- e) Report progress to Project Officer as required by IAG

4) Shoshone-Bannock Tribes

- a) Select/employ technical representative(s) for project (David Reisman) [completed]
- b) Receive technical support from technical representative
- c) Comment on draft planning documents and draft reports
- d) Provide any additional technical information for Expert Review Team members

5) FMC (RP)

- a) Receives copy of final documents

ARD-Assessment and Remediation Division
 TIFSD-Technology Information and Field Services Division
 IAG-Interagency Agreement
 RP- Responsible Party

Attachment 2
****DRAFT** IAG Work Order**
(Draft 3/7/14)

Background: In September 2012, the EPA issued an [Interim Record of Decision Amendment](#) for the FMC Operable Unit at the Eastern Michaud Flats Superfund site in Pocatello, Idaho. In the Remedial Investigation/Feasibility study, a review of technologies that could be implemented to address the elemental phosphorous in soil (the principal threat waste) was conducted. Based on that review and using CERCLA's nine criteria, EPA determined that capping was the preferred approach. However, the Shoshone-Bannock Tribes, a major stakeholder, favor the permanent removal of and/or treatment of contaminants. The Tribes have expressed concerns regarding the previous review conducted on potential treatment technologies. To address the Tribes' concerns, EPA has agreed to commission an Independent Review of excavation and treatment technologies (ETT) for soils contaminated with elemental phosphorous to further inform the assessment of potential ETT.

Purpose: The U.S. Environmental Protection Agency (EPA) is committed to working closely with the Shoshone-Bannock Tribes (Tribes) in framing and conducting this Independent Review of ETT for soil contaminated with elemental phosphorous. The EPA and the Tribes agree that such a review should be conducted by an independent, objective entity capable of assembling world-class expertise on the subject matter. The EPA believes, and the Tribes concur, that the Argonne National Laboratory (ANL) offers these attributes. The results of this unique effort will ultimately supplement the extensive evaluation of treatment technologies and will be added to the record for the final remedy decision related to the FMC Operable Unit.

The Review: The Independent Review of ETT will be conducted in one or possibly two phases. Phase 1 is the subject of this Work Order and will involve profiling possible ETT relative to the FMC OU. Phase 2 of this effort may be undertaken if the EPA, with input from the Tribes, determines that the results of Phase 1 merit additional evaluation. (Note: The scope of Phase 2 has not yet been developed, however, it may include a preliminary design analysis, and identification of additional studies or evaluations related to implementability, effectiveness, costs, health and safety or other concerns. Funding for Phase 2 has not been secured by EPA, and conducting Phase 2, if needed, will be dependent on available resources. Phase 2 is not included within this current tasking.)

The scope of Phase 1 will include, at a minimum, the following:

- Establishment of an Expert Review Team and Conflict of Interest Plan – To form the Review Team, Argonne will identify, select, and if necessary enter into a contractual relationship with, individuals who have expertise in technical areas relevant to this evaluation. Types of expertise may be related to, but are not limited to, elemental phosphorus chemistry, contaminant fate and transport, excavation of ignitable and reactive materials, and ex situ or in situ treatment of elemental phosphorus or similar waste. Argonne will determine the number and affiliation of the members of the Review Team. Argonne will develop a *Conflict of Interest (COI) Plan* that identifies affiliations or activities that would constitute COI related to participation on the Review Team.

- Review Existing Site Characterization Information – Existing information regarding site-specific conditions, such as contaminant concentrations and locations, will be provided to the Review Team. No additional sampling will be commissioned or undertaken to support this review.
- Extent of Review – The review will be limited to identifying and profiling ETT for elemental phosphorous in soil (the principal threat waste) only. Other contaminants or media will not be evaluated unless it is determined that they impact the efficacy of an ETT.
- Technologies – The review will identify technologies (in situ and ex situ) from existing applied research, bench-scale, pilot and/or operational situations that are relevant to the conditions found at the FMC OU.
- Applicability – For those ETT identified and profiled, the review will evaluate their applicability to the conditions found at FMC throughout the OU or any sub areas of the FMC OU.
- Efficacy and Feasibility– The review will also profile the expected efficacy and feasibility of ETT identified and profiled, particularly in facilitating safe implementation given the site specific conditions at the FMC OU.
- Risks – The review will identify and describe the expected risks associated with implementation of those ETT identified and profiled.
- Costs – The review will provide cost estimates for each ETT identified and profiled. These estimates will include costs necessary to mitigate any risk(s) identified in the previous bullet.

In addition the review will not contain the following:

- Evaluation of remedial technologies against the CERCLA nine criteria
- Recommendations

Products:

- Argonne will provide a *Draft Report* to EPA and the Tribes for review and comment followed by a *Final Report*. The *Report* will contain a detailed description of the methodology used to conduct the review, as well as the components described above.
- Argonne will prepare a *Response to Comments on Draft Report* as a separate product.
- Argonne will prepare and present a PowerPoint presentation to EPA and the Tribes that summarizes the contents of the *Report*. The presentation will occur shortly after deliver of the *Draft Report*.

Status Reports: As part of the monthly IAG reporting, Argonne will provide a brief status update of the effort, such as the general stage of the review, the percentage completed, and any changes in the schedule. This status will be shared with the EPA team members and the Shoshone-Banock Tribes.

Schedule: The review process through the submittal of the draft Report may take up to about five months following the signing of the Work Order by the EPA Project Officer (PO). The EPA and Tribal review of the draft Report will take approximately 2 months. Argonne will deliver the *Final Report* and the *Response to Comments*, approximately 2 months after receiving EPA and Tribal comments and approval by the EPA Project Officer. It is expected that the project will be completed within 10 months from the date of approval of the Work Order by the EPA PO.

Attachment 3
List of Applicable Technical Information
(Draft 3/7/14)

[List of available reference material and Internet links of potential use to Expert Review Team]

1. [Eastern Michaud Flats Contamination Website](#)
2. [Interim Record of Decision Amendment for the Eastern Michaud Flats Superfund Site, FMC Operable Unit \(PDF\)](#) (299 pp, 19MB) - October 2012
3. [Site-Wide Gas Assessment Report for FMC Operable Unit \(PDF\)](#) (196 pp, 24MB) - December 2010
4. [1998 Superfund Record of Decision \(ROD\) ID Number: EPA/541/R-98/034 Text Only \(PDF\)](#) (172 pp, 285K)- June 8, 1998
5. [1998 Superfund Record of Decision \(ROD\) ID Number: EPA/541/R-98/034 with Maps/Tables \(PDF\)](#) (227 pp, 15MB) - June 8, 1998
 - a. [1998 ROD color Figures \(PDF\)](#) (9 pp, 6MB)
6. [FMC Plant OU – Interim CERCLA 2009 Groundwater Monitoring Report \(PDF\)](#) (173 pp, 2MB) - February 2011
7. [Ready for Reuse Determination FMC Plant Operable Unit, SRIA Parcels 4 to 6 \(PDF\)](#) (29 pp, 12MB) - November 2010
8. [FMC Supplemental Feasibility Study \(PDF\)](#) (413 pp, 27MB) - July 2010
9. [FMC Supplemental Feasibility Study Appendices \(PDF\)](#) (1038 pp, 34MB) - July 2010
10. [FMC Supplemental Feasibility Study Revised Work Plan \(PDF\)](#) (271 pp, 8.6MB) - March 2010
11. [FMC Supplemental Remedial Investigation Volume 1: Report \(PDF\)](#) (586 pp, 25MB) - January 2010 (Appendices are available for review at any repository location, or upon request to [Kira Lynch](mailto:lynch.kira@epa.gov) (lynch.kira@epa.gov) / 206-553-2144)
12. [FMC Supplemental Remedial Investigation Addendum Report \(PDF\)](#) (157 pp, 11.7MB) - January 2010 (Appendices are available upon request to [Kira Lynch](mailto:lynch.kira@epa.gov) (lynch.kira@epa.gov) / 206-553-2144)
13. [FMC Groundwater Current Conditions Report \(PDF\)](#) (429 pp, 10.8MB) - June 2009
14. [Tables and Figures \(PDF\)](#) (115 pp, 12.6MB)
15. [Appendices \(PDF\)](#) (890 pp, 24.3MB)
16. [Statement of Work \(PDF\)](#) (20 pp, 159K) - October 9, 2003
17. [Figure 1 Map \(PDF\)](#) (1 page, 96K)
18. [Figure 2 Decision Tree \(PDF\)](#) (1 page, 47K)
19. [Remediation of P4 Contaminated Matrices at FMC, Pocatello, Idaho \(PDF\)](#) (19 pp) US Army Corps of Engineers (Marianne E. Walsh) January 2009
20. [Treatment Technologies for Historical Ponds Containing Elemental Phosphorus - Summary and Evaluation \(PDF\)](#) (98pp) USEPA EPA 542-R-03-013, August 2003
21. [Administrative Record Index \(PDF\)](#) (111 pp, 433K)

**EPA'S DRAFT PROPOSAL TO COMMISSION
AN INDEPENDENT REVIEW OF EXCAVATION/TREATMENT TECHNOLOGIES
FOR THE FMC OPERABLE UNIT OF THE EASTERN MICHAUD SUPERFUND SITE**

Context

The EPA will be issuing an Interim Record of Decision for the FMC Operable Unit (FMC OU) selecting capping of contaminated soil and groundwater extraction and treatment based on the existing Administrative Record. The Shoshone-Bannock Tribes favor the permanent removal and/or treatment of subject contaminants. There are a number of dimensions related to both EPA's decision-making on this matter and the Tribes' response to it. These are well-documented in the public record. The balance of what follows is intended to review only the narrower subject of (ETT) for soils contaminated with elemental phosphorous, the principal threat waste at the FMC OU.

The EPA is committed to working closely with the Tribes in framing and conducting an Independent Review of excavation and treatment technologies for soil contaminated with elemental phosphorous at the FMC OU. The results of this unique effort will ultimately supplement the extensive evaluation of treatment technologies and will be added to the record for the final remedy decision related to the FMC Operable Unit.

The Independent Review of ETT will be composed of one or two phases. Phase 1 will involve profiling possible ETT relative to the FMC OU. The EPA will both fund and administratively facilitate the Phase 1 review, and support the Tribes' full and meaningful participation in the effort by providing them access to technical assistance services. Phase 2 is contingent on the results of Phase 1. Its scope is intended to provide information to further inform an evaluation of one or more ETT according to the nine criteria provided in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The Phase 2 evaluation could include, but is not limited to, a preliminary design analysis outlining major design features and information needs, including identification of additional studies or evaluations, such as a treatability study, related to implementability, effectiveness, costs, health and safety or other concerns.

Phase 1: The Technology Review

The following outlines the proposed scope, major processes, products and schedule of Phase 1 of this review.

Scope – The scope of the work undertaken by the independent, expert review entity (Review Entity) covers several areas which EPA plans to generally frame as follows:

- **Site-Specific Information** – Existing information on the contamination found at the FMC OU will be provided to and actively considered by the Review Entity. Ready access to all such information will be furnished to the Review Entity. No additional site investigation will be commissioned or undertaken in support of this review. However, the Review Entity may identify any substantial information gaps discerned over the course of its work and discuss their implications on the Review.
- **Target Contaminant** – The Review Entity will focus on ETT for the designated principle threat waste at the FMC OU – elemental phosphorous (and its byproducts). Other contaminants already identified at the FMC OU will not be evaluated. However, the Review Entity may identify the extent to which these other contaminants are determined to be either mitigated or exacerbated by or impact the efficacy of subject ETT.
- **Types of ETT** – The Review Entity will profile existing applied research, bench-scale, pilot and/or operational ETT relevant to conditions found at the FMC OU. The ETT under consideration may include both in-situ (those not requiring excavation) and ex-situ treatment technologies. The Review Entity will not actively consider theoretical, conceptual and/or basic research ETT.
- **Applicability of ETT** – The Review Entity will profile the applicability of ETT identified in "Types of ETT" in addressing contamination at the FMC OU. Specifically, the Review Entity may identify and evaluate ETT that could potentially address elemental phosphorus contamination both across the FMC OU and in any highly contaminated or environmentally significant sub-areas of the FMC OU.
- **Efficacy of ETT** – The Review Entity will profile the expected efficacy of candidate ETT for facilitating safe excavation and/or eliminating or reducing physical hazards and toxicity of contamination at the FMC OU (in its entirety or in sub-areas of interest described above).
- **Feasibility of ETT** – The Review Entity will profile the expected feasibility of implementing candidate ETT at the FMC OU. This profile will include physical and logistical dimensions of implementation, including duration to implement.

- **Health & Safety** - The Review Entity will profile the nature of expected health and safety risks (to on-site workers and the public) related to candidate ETT and their implementation. This profile will be as quantitative as possible.
- **Cost** - The Review Entity will profile the costs related to candidate ETT and their implementation across the FMC OU and in any highly contaminated or environmentally significant sub-areas of the FMC OU identified jointly by the Tribes and EPA.

Major Process Features – The effort will be accomplished employing the following major process features:

- **Decision-Making** – The Regional Administrator of USEPA Region 10 will work directly with the Chairman of the Shoshone-Bannock Tribes to timely resolve any disputes regarding this review, including its processes, substance and products. By law, EPA must retain the final responsibility for directing and implementing the contract or other similar mechanism for this independent review.
- **Framing the Work of the Review Entity** – EPA will work with the Tribes to jointly frame the detailed work to be undertaken by the Review Entity consistent with the provisions described in the foregoing “Scope” section. The EPA is seeking funding to support the Tribes’ full and meaningful participation in this and other aspects of the effort (i.e., draft report review) by providing access to services via the Technical Assistance Support to Communities contract or other similar mechanism. EPA expects that this framing work will be accomplished in weekly conference calls until completion.
- **Selection of Review Entity** – The EPA will engage a qualified expert entity to perform the Phase 1 and, if appropriate, Phase 2 of the review. This Review Entity will self identify the members of the review team, but input on known experts in the field may be provided by the Tribes and the EPA. EPA will work with the Tribes to jointly select and activate the Review Entity via a four-step process:
 - EPA will work with the Tribes to jointly develop the critical competencies of and selection criteria for the independent expert review entity. EPA expects that this work will be accomplished in weekly conference calls until completion.
 - EPA will propose both the means available for funding the review entity and the entities available to the EPA, and then work with the Tribes to jointly develop a short list of candidate funding mechanisms and specific candidate entities for subsequent joint evaluation. EPA expects that this work will be accomplished in weekly conference calls until completion.
 - EPA will work with the Tribes to jointly select the Review Entity. EPA expects that this work will be accomplished in weekly conference calls until completion.
 - EPA will endeavor to establish the enabling funding agreement with the selected Review Entity and the effort will commence within three months of Review Entity selection.
- **Interactions with Review Entity** – It is critical that the Review Entity be able to conduct its technical review work in a truly independent fashion, free from any and all outside interference or influence. From the time the Review Entity commences its work through to the delivery of its draft product, EPA agrees to allow this process to proceed independently and to avoid engaging in separate conversations with the Review Entity for purposes of influencing the outcome of this work. However, EPA will retain and fulfill its legal responsibilities for directing and implementing the contract or other similar mechanism for this independent review.
- **Product Review** – Within four (4) months after its work commences, the Review Entity will prepare a draft report of its findings based on the items outlined in the *Scope* section above for review by the Tribes and EPA. The Review Entity will include a section in the report summarizing its findings regarding the technologies considered by the Review Entity and the factors listed above in scope of the review (i.e. target contaminants, efficacy, feasibility, health and safety and cost). The review of this draft report will be confined to clarifications of report content. The input of altogether new content or information to the report by the Tribes or EPA is not allowed. It is EPA’s goal that within one (1) month following receipt of the draft report, the Tribes and the EPA will prepare letters transmitting their request for needed clarifications. Within one (1) month following its receipt of the clarifications review letter, the Review Entity will subsequently revise and/or augment the draft report with the clarifications sought and issue a final report.

Products – This effort will yield a draft report, followed by a final report, as described below:

- **Draft Report** - The Review Entity will prepare a draft report reflecting content consistent with the foregoing *Scope* section and subject to the review parameters outlined in the foregoing *Process-Product Review* section. The draft report will also include detailed descriptions of the experts, methodologies, and reference materials involved in the review and the production of its findings.
- **Final Report** - The Review Entity issues final report, incorporating clarifications as appropriate.

Schedule – This effort will proceed as follows:

- Month 1:
 - R10 is seeking to activate a Technical Assistance Support to Communities (TASC) contract or similar funding vehicle to provide the Tribes with access to specialized technical assistance in accordance with its legal and funding restrictions and requirements
 - Commence Scoping/Framing effort (note: may have to await TASC or other similar process for Tribal technical assistance, R10 convenes weekly conference calls)
 - Develop critical competencies profile and selection criteria for independent expert review entity (note: may have await TASC or other similar process, R10 convenes weekly conference calls)
 - Develop short list of candidate independent expert review entities and evaluate candidates (note: may have await TASC process or other similar process, R10 convenes weekly conference calls)
- Months 2-3:
 - Technical assistance contractor directly engages with Tribes
 - Complete Scoping/Framing effort (R10 convenes weekly conference calls)
 - Finalize critical competencies profile and selection criteria for independent expert review entity (R10 convenes weekly conference calls as needed)
 - Finalize short list of candidate independent expert review entities and evaluate candidates (R10 convenes weekly conference calls as needed)
 - Select independent expert Review Entity
- Month 4:
 - Establish Review Entity funding mechanism
 - Review Entity commences work
- Month 8:
 - Review Entity issues draft report
- Month 9:
 - Tribes & EPA transmit comments on draft report
- Month 10:
 - Review Entity issues final report

Phase 2: Further Evaluation of Promising ETT

The following describes the major elements of a possible Phase 2 of the independent review.

Decision to Proceed – Phase 2 of this effort may be undertaken if the EPA, with input from the Tribes, determines that the results of Phase 1 merit additional evaluation. Funding for Phase 2 has not been secured by EPA and is necessarily dependent on available resources. In brief, Phase 2 may be launched if Phase 1 either identifies new promising ETT not previously profiled in the RI/FS or related efforts, or divulges new information related to previously profiled ETT that supports the need for further evaluation. The EPA will consider the information contained in the final report produced in Phase 1 in making this decision. Its scope is intended to provide information to inform an evaluation of the ETT according to the nine criteria provided in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This evaluation could include a preliminary design analysis outlining major design features and information needs necessary for implementation, or identification of additional studies or evaluations, such as a treatability study, to determine implementability or effectiveness. Again, at present, EPA has not committed any funds for Phase 2.

Scope - The goal of Phase 2 is to broadly frame the scope and design of a possible future study at the FMC OU employing the ETT jointly selected by the Tribes and EPA at the conclusion of Phase 1. Achieving this goal involves the first effort, and if needed, the second effort described below:

- The Review Entity may be tasked with conducting an in-depth assessment of the candidate ETT (i.e., excavation and treatment technologies) relative to each of the elements detailed in the “Scope” section of Phase 1. This assessment may include a more rigorous analysis of any significant information gaps, technological challenges, projected uncertainties, costs and other issues relevant to the CERCLA nine criteria.
- The Review Entity may be tasked with framing the nominal scope and design of a possible future treatability study at the FMC-OU employing the ETT jointly selected by the Tribes and EPA. This effort may include, but is not limited to, a discussion of the conceptual integration of excavation and treatment technologies, recommended scale, critical physical and process design features, health and safety considerations, performance criteria, quality assurance and other features that would significantly enhance and expedite the design of a possible future treatability study.

Major Process Features of a Potential Second Phase – The effort will be accomplished employing the following major process features:

- **Decision to Proceed** – (see foregoing)
- **Decision-Making** – (see related Phase 1 discussion)
- **Refining Scope** – If EPA commissions Phase 2 work, EPA will work with the Tribe to jointly frame the detailed Phase 2 work to be undertaken by the Review Entity consistent with the provisions described in the foregoing “Scope” section. EPA expects that this framing work will be accomplished in weekly conference calls until completion.
- **Interactions with Review Entity** – (see related Phase 1 discussion)
- **Product Review** – Within two (2) months after its work commences, the Review Entity will prepare a draft report of its findings for review by the Tribes and EPA. The review of this draft report will be confined to clarifications of report content. The input of altogether new content or information to the report by the Tribes or EPA is not allowed. Within one (1) month following receipt of the draft report, the Tribes and the EPA will prepare letters transmitting their request for needed clarifications. Within one (1) month following its receipt of the clarifications review letter, the Review Entity will subsequently revise and/or augment the draft report with the clarifications sought and issue a final report.

Products – This effort will yield a draft report, followed by a final report employing process similar to that used for Phase 1, as described below:

- **Draft Report** - The Review Entity will prepare a draft report reflecting content consistent with the foregoing “Scope” section and subject to the review parameters outlined in the foregoing “Process - Product Review” section. The draft report will also include detailed descriptions of the experts, methodologies, and reference materials related to the review and the production of its findings. The draft report will not include any additional judgments, recommendations or remarks.
- **Final Report** - The Review Entity issues final report, incorporating clarifications as appropriate. The final report will not include any additional judgments, recommendations or remarks.

Schedule – This effort may proceed as follows:

- Month 1:
 - Commence Scoping/Framing Effort for Phase 2
- Month 2:
 - Complete Scoping/Framing Effort (R10 convenes weekly conference calls)
- Month 3:
 - Review Entity Commences Work on Phase 2
- Month 5:
 - Review Entity Issues Draft Report
- Month 6:
 - Tribes & EPA Transmit Reviews of Draft Report
- Month 7:
 - Review Entity Issues Final Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 10 2012

DEPUTY ADMINISTRATOR

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

The Honorable Nathan Small
Chairman
Fort Hall Business Council
Shoshone-Bannock Tribes
P.O. Box 306
Fort Hall, Idaho 83203

Dear Chairman Small:

I would like to follow up on our May 16, 2012, meeting regarding the cleanup of the FMC Operable Unit at the Eastern Michaud Flats Superfund in Pocatello, Idaho. We are grateful for the special effort you and your staff made in traveling to Washington, D.C., to talk with us. We also greatly appreciated the opportunity to hear firsthand the tribes' major concerns about this important cleanup.

Through both meetings and correspondence, the tribes' views on this cleanup have been clearly articulated to the U.S. Environmental Protection Agency. We understand that a sacred portion of your ancestral home has been adversely impacted and acknowledge your longstanding interest in returning this land to pre-industrial condition.

The EPA believes it is important to proceed with issuance of an interim record of decision amendment for the FMC Operable Unit that selects capping of contaminated soil and groundwater extraction and treatment. This interim action is necessary to stop the infiltration of contaminants to groundwater and their subsequent migration to adjoining springs and the Portneuf River.

The EPA remains committed to working closely with the tribes in framing and conducting an independent review of excavation and treatment technologies for soil contaminated with elemental phosphorous at the FMC Operable Unit. The results of this unique effort will ultimately supplement the extensive evaluation of treatment technologies reflected in the administrative record for the interim record of decision amendment for the FMC Operable Unit.

At the close of our meeting, I suggested that the EPA frame the path forward for the independent review and describe how its product would be integrated with the regular Superfund process. I have asked Regional Administrator Dennis McLerran and his staff to take the lead on this effort. Please find attached a proposal they developed for commissioning the independent review. We invite your review of and engagement with this draft document. Please direct your comments to Jon Schweiss who is, as you know, a senior advisor to Regional Administrator McLerran and is assigned to manage this independent review.

Following I briefly describe how this independent review will be integrated into the regular Superfund process. The EPA will consider the product of the independent review when selecting the final remedy for the FMC Operable Unit. This includes considering the independent review findings when determining whether to implement treatability or other types of studies for the FMC Operable Unit before selecting the final remedy and placing the independent review report in the administrative record for the final remedy for the FMC Operable Unit. Any decision regarding future studies, including treatability studies, must necessarily be made in accordance with the Comprehensive Environmental Response Compensation and Liability Act, the National Oil and Hazardous Substances Pollution Contingency Plan, and relevant EPA CERCLA guidance.

Your letter also raised other concerns related to soil gas, the status of the tribes' soil-cleanup standards as applicable and relevant or appropriate requirements for this interim cleanup decision, and using a tribal risk scenario to assess risks from the site. It is my understanding that the tribes also raised these concerns in formal comments on the EPA's proposed plan for the FMC Operable Unit and that those concerns were addressed in the draft response to comments provided in advance of the recent government to government consultation. The response to comments will be finalized with the issuance of the interim record of decision amendment.

Again, it was a pleasure and an honor to meet with you and your staff. I look forward to reports from Regional Administrator McLerran both about his future interactions with you and the progress on this important matter.

Sincerely,

A handwritten signature in black ink that reads "Bob Perciasepe". The signature is fluid and cursive, with the first name "Bob" and last name "Perciasepe" clearly legible.

Bob Perciasepe

Attachment